

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CERT. UNWRS. AT LLOYD'S OF LONDON and GCUBE UNWRS LTD

(b) County of Residence of First Listed Plaintiff **UNITED KINGDOM**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

PAUL R. BARTOLACCI, ESQUIRE, COZEN & O'CONNOR,
One Liberty Place, 1650 Market St., Phila. PA 19103 (215) 665-2001

DEFENDANTS

JTEKT NORTH AMERICA CORPORATION

County of Residence of First Listed Defendant **Cuyahoga**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

RICHARD B. WICKERSHAM, JR., POST & SCHELL, P.C.
4 Penn Ctr., 1600 JFK Blvd., 13th Fl., Phila. PA 19103 (215) 587-6612

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input checked="" type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input checked="" type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input checked="" type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. §1332 (2006)

Brief description of cause:

DEFECTIVE BEARING ASSEMBLY IN WIND TURBINE RESULTING IN A FIRE AND PROPERTY LOSS

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
3,254,828.33

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
 10/20/2015

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

CERTAIN UNDERWRITERS AT LLOYD'S OF
LONDON and GCUBE UNDERWRITING, LTD.,
Plaintiffs

v.

JTEKT NORTH AMERICA CORPORATION,
Defendant

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

October 20, 2015


Richard B. Wickersham, Jr.

JTEKT North America Corporation

Date

Attorney-at-law

Attorney for

(215) 901-0766

(215) 320-4875

rwickersham@postschell.com

Telephone

FAX Number

E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiffs: **Certain Underwriters at Lloyd's London, 1 Lime street, London, England EC3M 7 HA.
GCube Underwriting Ltd., 155 Fenchurch Street, London, England EC3M 6 AL.**

Addresses of Defendants: **JTEKT North America Corporation, 29570 Clemons Road, Westlake, Ohio 44145.**

Place of Accident, incident or Transaction: **Portage, Pennsylvania (Cambria County)**
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☐

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

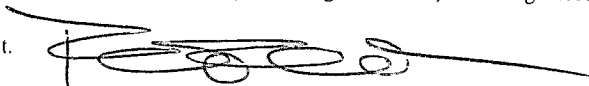
1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☒ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION
(Check Appropriate Category)

I, RICHARD B. WICKERSHAM, JR., ESQUIRE, counsel of record do hereby certify:

- ☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

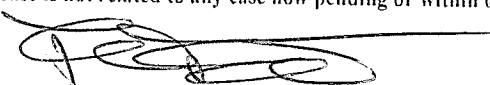
DATE: 10/20/2015


RICHARD B. WICKERSHAM, JR., ESQUIRE 494466
Attorney-at-Law

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/20/2015


RICHARD B. WICKERSHAM, JR., ESQUIRE 494466
Attorney-at-Law

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CERTAIN UNDERWRITERS AT LLOYD'S
subscribing to Policy No. W1124052502, Including the
Following Members/Names: Lloyd's Syndicate 510 (Line
One)(Kiln), Lloyd's Syndicate 2623 (Beazley), Lloyd's
Syndicate 2122 (Argenta), Lloyd's Syndicate 5000
(Travelers), Lloyd's Syndicate 3000 (Markel), Lloyd's
Syndicate 1084 (Chaucer), Lloyd's Syndicate 609
(Atrium), Lloyd's Syndicate 551 (Montpelier Re),
Lloyd's Syndicate 2003 (Catlin), Lloyd's Syndicate 1200
(Argo), Lloyd's Syndicate 510 (Line Two)(Kiln), Lloyd's
Syndicate 4020 (Ark), Lloyd's Syndicate 33 (Hiscox),
Lloyd's Syndicate 1036 (O'Farrell), Lloyd's Syndicate
623 (Beasley), Lloyd's Syndicate and Great Lakes Re
(Munich Re) a/s/o INFIGEN ENERGY LIMITED
and GCUBE UNDERWRITING LIMITED
a/s/o INFIGEN ENERGY LIMITED,

Plaintiffs,

v.

JTEKT NORTH AMERICA CORPORATION,

Defendant.

CIVIL ACTION

JURY TRIAL DEMANDED

**PETITION FOR REMOVAL
PURSUANT TO 28 U.S.C. §1332 AND 28 U.S.C. §1441**

Defendant, JTEKT North America Corporation (f/n/a Koyo Corporation USA), by and through its attorneys, Post & Schell, P.C., hereby petitions to remove this civil action, pending in the Court of Common Pleas, Philadelphia County, April Term, 2015, No. 2745, pursuant to 28 U.S.C. §1332 and 28 U.S.C. §1441 *et seq.*, and in support thereof, avers as follows:

I. NATURE OF ACTION

1. This is a subrogation claim commenced by Writ of Summons involving an alleged May 3, 2013 fire in a wind turbine at the Allegheny Ridge Wind Farm in Portage, Pennsylvania. See a true and correct copy of the Writ of Summons attached hereto as Exhibit "A."

2. Plaintiffs, Certain Underwriters at Lloyd's London a/s/o Infigen Energy Limited and GCube Underwriting Ltd. a/s/o Infigen Energy Limited, assert causes of action sounding in strict products liability, negligence and negligent misrepresentation against a lone Defendant, JTEKT North America Corporation (f/k/a Koyo Corporation of USA). See a true and correct copy of the Complaint attached hereto as Exhibit "B."

3. Plaintiff, Certain Underwriters at Lloyd's London, is a foreign corporation with a principal place of business in London, England. See Exhibit "B" at ¶1 (Parties); Ashenden v. Lloyd's of London, 934 F.Supp. 992 (N.D.Ill. 1996)(Lloyd's is "considered a corporation for purposes of analysis under §1332."); www.lloyds.com.¹

4. Plaintiff, GCube Underwriting Ltd., is a foreign corporation with a principal place of business in London, England. See Exhibit "B" at ¶2 (Parties)/Caption; www.gcube-insurance.com.

5. The subrogor, Infigen Energy Limited, is a foreign corporation with a principal place of business in Sydney, Australia. See www.infigenenergy.com.

6. Defendant, JTEKT North American Corporation (f/k/a Koyo Corporation USA), is a domestic company incorporated in the State of South Carolina which has its principal place of business in the State of Ohio. See Exhibit "B" at ¶3 (Parties).

II. PROCEDURAL HISTORY

7. On October 6, 2015 Plaintiffs filed the Complaint in the Philadelphia County Court of Common Pleas, see Exhibit "B," and served it the same date.

¹ None of the "Syndicates" alleged in the caption of the Complaint (Exhibit "B.") were named in the Writ of Summons (Exhibit "A") commencing this civil action and, moreover, the statute of limitations expired before the Complaint was filed of record. The original removal papers were drafted as per the caption commencing this civil action but were refused by the Clerk of Court because they did not "match" the caption of the Complaint. Hence, the "Syndicates" are herein set forth only to facilitate the prompt filing of the instant Petition for Removal.

8. Pursuant to 28 U.S.C. § 1446(b)(2)(B), Defendant shall have thirty (30) days after service of the Complaint to file a notice of removal, this notice of removal, and related papers, has been filed within thirty (30) days of the date of service of the Complaint and is, therefore, timely under 28 U.S.C. § 1446(b).

III. LEGAL ARGUMENT

A. THE PARTIES ARE DIVERSE

9. Pursuant to 28 U.S.C. § 1332, a matter may be removed to Federal Court based upon the diversity of citizenship of the parties.

10. On the face of the Complaint, as stated above, the Defendant (South Carolina/Ohio) has diverse citizenship from that of the foreign Plaintiffs (England).

11. As a result, there is complete diversity of citizenship between the Plaintiffs and the Defendant.

B. THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000

12. Under 28 U.S.C. §1332(a), federal jurisdiction based on diversity of citizenship requires that the amount in controversy exceed \$75,000.

13. In this case, Plaintiffs have alleged specific damages in the amount of \$3,254,828.33. See Exhibit “B” at ¶10.

IV. CONCLUSION

14. Therefore, removal is proper under 28 U.S.C. §§ 1332 and 1441.

WHEREFORE, Defendant, JTEK North America Corporation, respectfully requests that this Honorable Court find this case to have been properly removed and assume full jurisdiction of this matter.

Dated: October 20, 2015

POST & SCHELL, P.C.

By: 

RICHARD B. WICKERSHAM, JR. (RW-9884)

ATTY ID No.: 49466

Four Penn Center, 13th Floor

1600 John F. Kennedy Boulevard

Philadelphia, PA 19103-2808

(215) 587-6612

rwickersham@postschell.com

Attorneys for Defendant,
JTEKT North America Corporation

CERTIFICATE OF SERVICE

I do hereby certify that service of a true and correct copy of the foregoing document was electronically filed via the ECF System (which is available for public viewing and printing) and has been served this day upon the following by e-mail:

Paul R. Bartolacci, Esquire
Daniel J. Luccaro, Esquire
COZEN O'CONNOR
One Liberty Place
1650 Market Street
Philadelphia, PA 19103
Attorneys for Plaintiffs

Dated: October 20, 2015

POST & SCHELL, P.C.

By:



RICHARD B. WICKERSHAM, JR.

**Petition for Removal
Exhibit “A”
Writ of Summons**

Court of Common Pleas of Philadelphia County
Trial Division**Civil Cover Sheet**

		For Prothonotary Use Only (Docket Number)	
		APRIL 2015	002745
		E-Filed Number: 1504053555	
PLAINTIFF'S NAME CERTAIN UNDERWRITERS AT LLOYD'S A/S/O INFIGEN ENERGY LIMITED		DEFENDANT'S NAME JTEK NORTH AMERICAN CORP F/K/A KOYO CORPORATION OF USA	
PLAINTIFF'S ADDRESS 1 LIME STREET LONDON EC3M 7 HA		DEFENDANT'S ADDRESS 29570 CLEMONS ROAD WESTLAKE OH 44145	
PLAINTIFF'S NAME G CUBE UNDERWRITING A/S/O INFIGEN ENERGY LIMITED		DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS 155 FENCHURCH STREET LONDON EC3M 6 AL		DEFENDANT'S ADDRESS	
PLAINTIFF'S NAME		DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS	
TOTAL NUMBER OF PLAINTIFFS 2	TOTAL NUMBER OF DEFENDANTS 1	COMMENCEMENT OF ACTION <input type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input checked="" type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other:		
CASE TYPE AND CODE 2P - PRODUCT LIABILITY			
STATUTORY BASIS FOR CAUSE OF ACTION			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		FILED PRO PROTHY APR 27 2015 K. EDWARDS	
		IS CASE SUBJECT TO COORDINATION ORDER? YES NO	
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>CERTAIN UNDERWRITERS AT LLOYD'S A/S/O INFIGEN ENERGY LIMITED, G CU</u> Papers may be served at the address set forth below.			
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY PAUL R. BARTOLACCI		ADDRESS 1900 MARKET ST, 3RD FL PHILADELPHIA PA 19103	
PHONE NUMBER (215) 665-2001	FAX NUMBER (215) 701-2001		
SUPREME COURT IDENTIFICATION NO. 39378		E-MAIL ADDRESS pbartolacci@cozen.com	
SIGNATURE OF FILING ATTORNEY OR PARTY PAUL BARTOLACCI		DATE SUBMITTED Monday, April 27, 2015, 01:29 pm	

FINAL COPY (Approved by the Prothonotary Clerk)

CP-97

Commonwealth of Pennsylvania
CITY AND COUNTY OF PHILADELPHIA

SUMMONS
CITACION

CERTAIN UNDERWRITERS AT LLOYD'S
LONDON a/s/o INFIGEN ENERGY
LIMITED, et al

COURT OF COMMON PLEAS



No. _____

vs.

JTEK NORTH AMERICA CORPORATION,
f/k/a KOYO CORPORATION OF U.S.A.

To⁽¹⁾

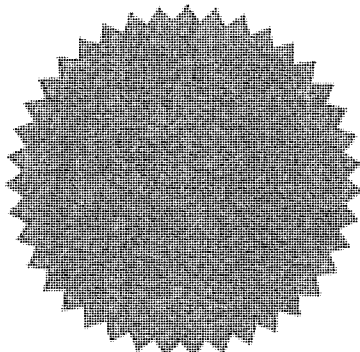
JTEK NORTH AMERICA
CORPORATION, f/k/a KOYO
CORPORATION OF U.S.A.
29570 Clemons Road

You are notified that the Plaintiff⁽²⁾

Usted esta avisado que el demandante⁽²⁾

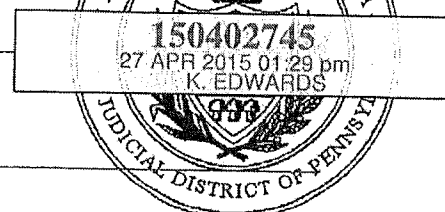
CERTAIN UNDERWRITERS AT LLOYD'S LONDON a/s/o INFIGEN ENERGY LIMITED and
G CUBE UNDERWRITING LIMITED a/s/o INFIGEN ENERGY LIMITED

Has (have) commenced an action against you.
Ha (han) iniciado una accion en contra suya.



JOSEPH H. EVERS
Prothonotary

By _____



Date _____

⁽¹⁾ Name(s) of Defendant(s)

⁽²⁾ Name(s) of Plaintiff(s)

COURT OF COMMON PLEAS

_____ Term, 20 ____ No. _____

CERTAIN UNDERWRITERS AT LLOYD'S
LONDON ^{as/s/o} INEIGEN ENERGY LIMITED, et
al

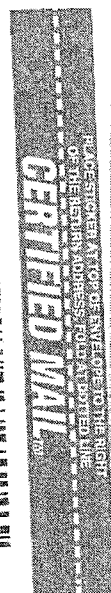
vs.

JTEK NORTH AMERICA CORPORATION,
l/k/a KOYO CORPORATION OF U.S.A.

SUMMONS



1900 Market Street
Philadelphia, PA 19103-3508

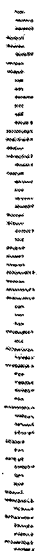


7002 3150 0004 9236 4217
19103-3508

To:

JTEK North America Corporation
f/k/a Koyo Corporation of US
29570 Clemons Road
Westlake, OH 44145

441451001 0021



10/20/15
\$006.48
7P
10/20/15

**Petition for Removal
Exhibit “B”
Complaint**

v.

JTEKT NORTH AMERICA CORPORATION,
f/k/a KOYO CORPORATION OF U.S.A.
29570 Clemons Road
Westlake, Ohio 44145

Defendant.

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COMPLAINT

Plaintiffs, Certain Underwriters at Lloyds London Subscribing to Policy Number WI124052502 and G Cube Underwriting Limited, by and through their undersigned attorneys, upon information and belief, complains of defendant, JTEKT North America Corporation f/k/a Koyo Corporation USA, as follows:

PARTIES

1. Plaintiff, Certain Underwriters at Lloyd’s London Subscribing to Policy No. WI24052502 (“Lloyd’s”) includes the those syndicates underwriting out of and companies that operate through the Lloyd’s, London insurance market at 1 Lime Street London, England participating in the insurance issued to Infigen Energy Limited (“Infigen”), including the following syndicates: Lloyd’s Syndicate 510 (Line One) (Kiln); Lloyd’s Syndicate 2623 (Beazley); Lloyd’s Syndicate 2122 (Argenta); Lloyd’s Syndicate 5000 (Travelers); Lloyd’s Syndicate 3000 (Markel); Lloyd’s Syndicate 1084 (Chaucer); Lloyd’s Syndicate 5151 (Montpelier Re); Lloyd’s Syndicate 609 (Atrium); Lloyd’s Syndicate 2003 (Catlin); Lloyd’s Syndicate 1200 (Argo); Lloyd’s Syndicate 510 (Line Two) (Kiln); Lloyd’s Syndicate 4020 (Ark); Lloyd’s Syndicate 33 (Hiscox); Lloyd’s Syndicate 1036 (O’Farrell); Lloyd’s Syndicate 623 (Beasley); and Great Lakes Re (Munich Re).

2. Plaintiff, G Cube Underwriting Limited (“G Cube) also participated in the insurance for Infigen.

3. Defendant, JTEKT North America Corporation f/k/a Koyo Corporation USA (“Koyo”), is a South Carolina corporation, with its principal place of business located at 29570 Clemons Road, Westlake, Ohio, and at all times material hereto, *inter alia*, was engaged in the business of designing, manufacturing and supplying industrial bearings.

FACTUAL ALLEGATIONS

1. At all times material hereto, plaintiffs’ insured, Infigen, owned and operated the Allegheny Ridge Wind Farm in Portage, Pennsylvania (“the Wind Farm”).

2. At all times material hereto, there was a Gamesa model G87 wind turbine known as Turbine A25 in operation at the Wind Farm (“the Turbine”).

3. At all times material hereto, plaintiffs provided insurance coverage to Infigen for the Turbine.

4. At all times material hereto, the Turbine contained a rear bearing assembly within its main shaft that was designed, manufactured and/or supplied by defendant Koyo (“the Bearing Assembly”).

5. On or about May 3, 2013, a fire occurred in the Turbine as a result of a failure of the Bearing Assembly (“the Fire”).

6. The failure and resulting Fire was a result of a manufacturing defect in the Bearing Assembly.

7. The defect in the Bearing Assembly caused the metal within the Bearing Assembly to rub and eventually crack.

8. The continued operation of the Bearing Assembly in its deteriorated condition over time generated significant heat from friction which ultimately ignited the lubricating grease in the Bearing Assembly.

9. The Fire spread from within the Bearing Assembly and resulted in damage to other parts of the Turbine and also damaged other property belonging to plaintiffs' insured.

10. Pursuant to the terms of the aforementioned insurance policy, plaintiffs have reimbursed their insured in the amount of \$3,254,828.33 for damages resulting from the Fire.

11. In accordance with the common law principles of legal and equitable subrogation and terms of the insurance policy, plaintiffs are subrogated to the rights of their insured to the extent of the aforementioned payments, with respect to any claims against defendant.

COUNT I: STRICT LIABILITY

12. Plaintiffs incorporate by reference the foregoing paragraphs as though fully set forth herein.

13. Defendant designed, manufactured, and/or distributed the Bearing Assembly, which was intended to be used in applications such as the Turbine.

14. The Bearing Assembly was defective and unsafe for its intended use by reason of defects which existed when defendant placed it into the stream of commerce.

15. The Bearing Assembly was defective in that it was in a condition not reasonably contemplated by consumers and was unusually and unreasonably dangerous for use in equipment such as the Wind Turbine.

16. The Fire and the resulting damage was caused by the defectively designed and/or manufactured Bearing Assembly.

17. As a direct and proximate result of the defective condition of the Bearing Assembly, the Fire occurred and resulted in significant damages to plaintiff.

18. Defendant is strictly liable for the Fire and resulting damages pursuant to Restatement (Second) of Torts §402(a), et seq.

WHEREFORE, plaintiffs demand judgment against defendant in the amount of \$3,254,828.33, exclusive of interest and costs.

COUNT II: NEGLIGENCE

19. Plaintiffs incorporate by reference the foregoing paragraphs as though fully set forth herein.

20. The Fire and the resulting damages were directly and proximately caused by the negligence, carelessness, recklessness, gross negligence and/or negligent acts and/or omissions of defendant Koyo in:

- (a) supplying a defectively manufactured and/or designed product;
- (b) failing to adequately, properly and safely assemble, inspect and/or test the Bearing Assembly;
- (c) failing to have proper quality control safeguards in place for the manufacture of the Bearing Assembly;
- (d) selecting improper materials for use in is product; and
- (e) failing to provide proper warnings, instructions and specifications for the Bearing Assembly.

WHEREFORE, plaintiffs demand judgment against defendant in the amount of \$3,254,828.33, exclusive of interest and costs.

**COUNT III: NEGLIGENT MISREPRESENTATION UNDER RESTATEMENT
(SECOND) OF TORTS §552**

21. Plaintiffs incorporate the foregoing paragraphs as though fully set forth herein at length.

22. Defendant Koyo is in the business of providing information along with its bearings including technical specifications.

23. In purchasing the Wind Turbine from Gamesa, plaintiffs' insured relied on information provided by Koyo to Gamesa regarding the capacity and fitness of its bearings for the application it was used in.

24. Defendant was aware when it prepared the design specifications for its bearings that that they would be used in applications such as the Wind Turbine and the specifications would be relied on by end users of the Wind Turbine such as plaintiffs' insured.

25. The specifications for the bearings were flawed and contained misinformation regarding their fitness for this particular application.

26. Defendant failed to exercise reasonable care and competence in drafting, designing and supplying the specifications for the bearings.

27. As a result of the flaws and misinformation contained in the specifications, the Fire occurred and resulted in significant damages.

WHEREFORE, plaintiffs demand judgment against defendant in the amount of \$3,254,828.33, exclusive of interest and costs.

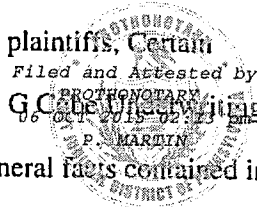
Dated: October 6, 2015

COZEN O'CONNOR

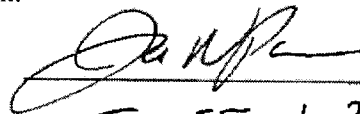
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VERIFICATION

James Papazis, being duly sworn according to law, deposes and states that I am a claims representative with G Cube Insurance Services, Inc. and am authorized by plaintiffs, Certain Underwriters at Lloyd's Subscribing to Policy Number WI124052502 and G Cube Insurance Limited, to verify the foregoing Complaint on their behalf, and that the general facts contained in the Complaint relating to the identity of the parties and the events that are the basis of this lawsuit are true and correct to the best of my information and belief, understanding that the statements made herein are made subject to penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsifications to authorities. The legal opinions, conclusions and theories are based upon the advice of counsel and forensic investigation undertaken by consultants, upon whom plaintiffs rely for purposes of making this verification.



Dated: 2 OCT 2015


JAMES N PAPAZIS

CERTIFICATE OF SERVICE

I do hereby certify that service of a true and correct copy of the foregoing document was electronically filed via the ECF System (which is available for public viewing and printing) and has been served this day upon the following by e-mail:

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Daniel J. Luccaro, Esquire
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Attorneys for Plaintiffs

Dated: October 20, 2015

POST & SCHELL, P.C.

By:



RICHARD B. WICKERSHAM, JR.